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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/998,370	11/29/2001	David Ray Kahler	TUC920010103US1	6965
46917	7590	02/09/2005	EXAMINER	
KONRAD RAYNES & VICTOR, LLP. ATTN: IBM37 315 SOUTH BEVERLY DRIVE, SUITE 210 BEVERLY HILLS, CA 90212			BONURA, TIMOTHY M	
		ART UNIT	PAPER NUMBER	
		2114		

DATE MAILED: 02/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/998,370	KAHLER ET AL
	Examiner Tim Bonura	Art Unit 2114

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 12 November 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-51 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-4, 13, 15-21, 30, 32-38, 47 and 49-51 is/are rejected.
- 7) Claim(s) 5-12, 14, 22-29, 31, 39-46 and 48 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 29 November 2001 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

DETAILED ACTION***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4, 13, 15-21, 30, 32-38, 47, 49-51 are rejected under 35 U.S.C. 102(b) as being anticipated by Powers, et al, U.S. Patent Number 5,212,785.

3. Regarding claim 1:

- a. Regarding the limitation of “detecting an error in a system including a first adaptor, wherein the first adaptor is capable of communicating on the storage network after the error is detected,” Powers discloses a system with a plurality of memory devices and components for controlling data flow with failure handling. (Lines 50-55 of Column 1).

- b. Regarding the limitation of “in response to detecting the error, initiating a monitoring state to monitor I/O requests transmitted through a second adaptor,” Powers discloses a system wherein a controller fails and the first control and second controller can handle the fail over and maintain constant configuration of the drives. (Lines 13-21 of Column 2).

- c. Regarding the limitation of “in response to receiving an I/O request, starting an I/O delay timer that is less than a system timeout period wherein an error recovery procedure in the system including the first adaptor would be initiated after the system timeout period has expired,” Powers discloses a system

with a timeout counter for the I/O controller. (Lines 11-14 of Column 7). Once a timeout has occurred, a system failure is indicated and recovery proceeds. (Lines 24-30 of Column 7).

d. Regarding the limitation of “sending a reset request to the first adaptor in response to detecting an expiration of one started I/O delay timer,” Powers discloses a system with wherein in response to the timeout, a secondary controller takes over as the primary and secondary controller. This is called BOTH STATES by the art. (Lines 65-67 of Column 7 and Line 1 of Column 8).

4. Regarding claim 2, Powers discloses system wherein the controller can suffer a complete failure, which results in total lack of communication with the memory devices. (Lines 23-27 of Column 2).

5. Regarding claim 3, Powers discloses a system wherein the secondary controller is a failure for the primary controller. (Lines 30-34 of Column 2).

6. Regarding claim 4, Powers discloses a system that can start a timeout period after an error detection (Lines 11-14 of Column 7) and releases a controller for the memory device for which it controlled upon the timeout period being reached. (Lines 24-32 of Column 7).

7. Regarding claim 13, Power discloses a system wherein the memory devices are shown connected in a loop structure between the two controllers. (See Figure 1, Items 18A, 18B, 18M with 14A and 14B).

8. Regarding claim 15, Powers discloses system wherein the controller can suffer a complete failure, which results in total lack of communication with the memory devices. (Lines 23-27 of Column 2).

9. Regarding claim 16, Powers discloses a system only the controller with the fault shuts down for the fault recovery. (Lines 14-17 of Column 5).

10. Regarding claim 17, Power discloses a system wherein the controller that fails shuts down. It would be inherent that the controller would have to be restarted in order to be brought back online. (Lines 14-17 of Column 5).

11. Regarding claim 18:

e. Regarding the limitation of “a second adaptor capable of communicating on the storage network,” Powers discloses a system with a second controller. (Lines 66-67 of Column 1 and Lines 1-5 of Column 2).

f. Regarding the limitation of “detecting an error in a system including a first adaptor, wherein the first adaptor is capable of communicating on the storage network after the error is detected,” Powers discloses a system with a plurality of memory devices and components for controlling data flow with failure handling. (Lines 50-55 of Column 1).

g. Regarding the limitation of “initiating a monitoring state to monitor I/O requests transmitted through a second adaptor, in response to detecting the error” Powers discloses a system wherein a controller fails and the first control and second controller can handle the fail over and maintain constant configuration of the drives. (Lines 13-21 of Column 2).

h. Regarding the limitation of “starting an I/O delay timer that is less than a system timeout period in response to receiving an I/O request,” Powers discloses a system with a timeout counter for the I/O controller. (Lines 11-14 of Column

7). Once a timeout has occurred, a system failure is indicated and recovery proceeds. (Lines 24-30 of Column 7).

i. Regarding the limitation of “sending a reset request to the first adaptor in response to detecting an expiration of one started I/O delay timer,” Powers discloses a system with wherein in response to the timeout, a secondary controller takes over as the primary and secondary controller. This is called BOTH STATES by the art. (Lines 65-67 of Column 7 and Line 1 of Column 8).

12. Regarding claim 19, Powers discloses system wherein the controller can suffer a complete failure, which results in total lack of communication with the memory devices. (Lines 23-27 of Column 2).

13. Regarding claim 20, Powers discloses a system wherein the secondary controller is a failure for the primary controller. (Lines 30-34 of Column 2).

14. Regarding claim 21, Powers discloses a system that can start a timeout period after an error detection (Lines 11-14 of Column 7) and releases a controller for the memory device for which it controlled upon the timeout period being reached. (Lines 24-32 of Column 7).

15. Regarding claim 30, Power discloses a system wherein the memory devices are shown connected in a loop structure between the two controllers. (See Figure 1, Items 18A, 18B, 18M with 14A and 14B).

16. Regarding claim 32, Powers discloses system wherein the controller can suffer a complete failure, which results in total lack of communication with the memory devices. (Lines 23-27 of Column 2).

17. Regarding claim 33, Powers discloses a system only the controller with the fault shuts down for the fault recovery. (Lines 14-17 of Column 5).
18. Regarding claim 34, Power discloses a system wherein the controller that fails shuts down. It would be inherent that the controller would have to be restarted in order to be brought back online. (Lines 14-17 of Column 5).
19. Regarding claim 35:
 - j. Regarding the limitation of “detecting an error in a system including a first adaptor, wherein the first adaptor is capable of communicating on the storage network after the error is detected,” Powers discloses a system with a plurality of memory devices and components for controlling data flow with failure handling. (Lines 50-55 of Column 1).
 - k. Regarding the limitation of “in response to detecting the error, initiating a monitoring state to monitor I/O requests transmitted through a second adaptor,” Powers discloses a system wherein a controller fails and the first control and second controller can handle the fail over and maintain constant configuration of the drives. (Lines 13-21 of Column 2).
 - l. Regarding the limitation of “in response to receiving an I/O request, starting an I/O delay timer that is less than a system timeout period wherein an error recovery procedure in the system including the first adaptor would be initiated after the system timeout period has expired,” Powers discloses a system with a timeout counter for the I/O controller. (Lines 11-14 of Column 7). Once a timeout has occurred, a system failure is indicated and recovery proceeds. (Lines 24-30 of Column 7).

m. Regarding the limitation of sending a reset request to the first adaptor in response to detecting an expiration of one started I/O delay timer," Powers discloses a system with wherein in response to the timeout, a secondary controller takes over as the primary and secondary controller. This is called BOTH STATES by the art. (Lines 65-67 of Column 7 and Line 1 of Column 8).

20. Regarding claim 36, Powers discloses system wherein the controller can suffer a complete failure, which results in total lack of communication with the memory devices. (Lines 23-27 of Column 2).

21. Regarding claim 37, Powers discloses a system wherein the secondary controller is a failure for the primary controller. (Lines 30-34 of Column 2).

22. Regarding claim 38, Powers discloses a system that can start a timeout period after an error detection (Lines 11-14 of Column 7) and releases a controller for the memory device for which it controlled upon the timeout period being reached. (Lines 24-32 of Column 7).

23. Regarding claim 47, Power discloses a system wherein the memory devices are shown connected in a loop structure between the two controllers. (See Figure 1, Items 18A, 18B, 18M with 14A and 14B).

24. Regarding claim 49, Powers discloses system wherein the controller can suffer a complete failure, which results in total lack of communication with the memory devices. (Lines 23-27 of Column 2).

25. Regarding claim 50, Powers discloses a system only the controller with the fault shuts down for the fault recovery. (Lines 14-17 of Column 5).

26. Regarding claim 51, Power discloses a system wherein the controller that fails shuts down. It would be inherent that the controller would have to be restarted in order to be brought back online. (Lines 14-17 of Column 5).

Allowable Subject Matter

27. Claims 5-12, 14, 22-29, 31, 39-46, and 48 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

28. Applicant's arguments filed 11/12/2004 have been fully considered but they are not persuasive.

29. Regarding claim 1:

n. Further regarding the arguments of the prior art of record not teaching, "in response to receiving an I/O request, starting an I/O delay timer." The examiner contends that the prior art, Powers, et al, U.S. Patent Number 5,212,785, of record teaches of a system in which a second level controller fails while processing instructions. (Lines 14-16 of Column 5) The examiner contends these instructions represent I/O requests. Upon this failure the second level controllers start a processes of fail over. (Lines 19-21 of Column 5). This request prompts Powers system to start a timeout counter for the I/O controller. (Lines 11-14 of Column 7). Thereby the examiner contends that I/O request failure leads directly to the starting of a timer.

- o. Further regarding the arguments of the prior art of record not teaching, “sending a reset request to the first adaptor in response to detecting an expiration of one started I/O delay timer.” The applicant goes on to further argue, “the timeout counter is not a reset request to an adaptor.” (Top of page 13 of the response by the applicant). The examiner believes that the applicant is continuing the arguing of the I/O request from above, thereby, the examiner would first like to point out the previous argument in the above paragraph (“n”). The examiner contends that the prior art, Powers, et al, U.S. Patent Number 5,212,785, of record teaches of a system in wherein the “Run-Down-Secondary-To-None-State” or the art teaches send a command to the first secondary level adaptor to take over being to receive I/O as in BOTH STATE, as opposed to the previous secondary states. (Lines 60-67 of Column 7 and Line 1 of Column 8).
30. Regarding the arguments for claims 18 and 35, please refer to the responses for claim 1. (Paragraph 31, above).
31. Applicant’s arguments see response to non-final rejection (page 13, 4th paragraph), filed 11/12/2004, with respect to the rejections of claim 35 under U.S.C. 101 have been fully considered and are persuasive. The 101 rejections of claim 35 has been withdrawn.

Conclusion

32. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

33. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Tim Bonura**.

- The examiner can normally be reached on **Mon-Fri: 8:30-5:00**.
- The examiner can be reached at: **571-272-3654**.

34. If attempts to reach the examiner by telephone are unsuccessful, please contact the examiner's supervisor, **Rob Beausoliel**.

- The supervisor can be reached on **571-272-3645**.

35. The fax phone numbers for the organization where this application or proceeding is assigned are:

- **703-872-9306 for all patent related correspondence by FAX.**

36. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov/>. Should you

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have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

37. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **receptionist** whose telephone number is: **571-272-2100**.

38. Responses should be mailed to:

o **Commissioner of Patents and Trademarks**

P.O. Box 1450

Alexandria, VA 22313-1450

Tim Bonura
Examiner
Art Unit 2114

tmb
February 3, 2005

Robert Beausoleil
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SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100